

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CONSOLIDATED COMMERCIAL CONTROLS, INC.)	CASE NO. 1:08-cv-04388
)	Honorable Virginia M. Kendall
Plaintiff,)	
)	
v.)	
)	
5 STAR SUPPLY LLC, et al.)	
)	
Defendants.)	
)	

**DEFENDANTS' MOTION TO DISMISS OR
ALTERNATIVELY TRANSFER ACTION DUE TO IMPROPER VENUE**

Defendants 5 Star Supply LLC, 5 Star Management Group, LLC, Linda A. Williams, Clifford G. Williams II, Stephen J. Pursel, Philip J. Caruso, and Robert G. Mastrofrancesco (“Defendants”) hereby move, (i) pursuant to Fed. R. Civ. P. 12(b)(3), that this case be dismissed on the grounds that venue is improper in this District due to the failure to satisfy the requirements of 28 U.S.C. § 1391(b), and (ii) that this case be dismissed in favor of a prior pending action in the United States District Court for the District of Connecticut, captioned *5 Star Supply LLC v. Consolidated Commercial Controls, Inc.*, Civil Action No. 3:08cv1100(JBA) (the “Connecticut Action”). Alternatively, Defendants move that this matter be transferred, pursuant to 28 U.S.C. §1404(a), to the United States District Court for the District of Connecticut, so that it may be consolidated with the Connecticut Action. The grounds for this motion are set forth in Defendants’ Memorandum in Support of Defendants’ Motion to Dismiss or Alternatively Transfer Action Due to Improper Venue, which is filed simultaneously herewith and incorporated herein by reference.

This action arises out of Defendants’ dissatisfaction with their at-will employment following the takeover of their former employer, a small, Connecticut-based company, by

Plaintiff Consolidated Commercial Controls, Inc., a Chicago-based conglomerate, and Defendants' perfectly legal decision to terminate said at-will employment and engage in business competitive with their former employer. Notwithstanding Plaintiff's strong protestations otherwise, Defendants, who were under no post-employment restrictions regarding competition or solicitation of employees or customers, are within their legal entitlements to engage in their current endeavors. Further, contrary to Plaintiff's representations to this Court in numerous pleadings filed herewith, Defendants have and continue to expressly deny that they have misappropriated confidential or trade secret information from Plaintiff. This Court, however, should not address the parties' underlying dispute in this regard, because venue is improper in this District and the United States District Court for the District of Connecticut is the proper forum for any and all such proceedings.¹

WHEREFORE, Defendants pray that this case be dismissed (i) pursuant to Fed.R.Civ.P 12(b)(3) for lack of venue, and/or (ii) in favor of the prior pending Connecticut Action, or, alternatively, that this case be transferred to the United States District Court for the District of Connecticut pursuant to 28 U.S.C. §1404(a) and that this Court grant such other and further relief as the Court deems just and proper.

DEFENDANTS 5 STAR SUPPLY LLC, 5 STAR MANAGEMENT GROUP, LLC, LINDA A. WILLIAMS, CLIFFORD G. WILLIAMS, II, STEPHEN J. PURSEL, PHILIP J. CARUSO, and ROBERT G. MASTROFRANCESCO,

By: s/Cary E. Donham
 Cary E. Donham
 Roger Joseph Kiley
 SHEFSKY & FROELICH LTD

¹ Via separate motion filed concurrently herewith, Defendants have moved that this matter be dismissed, pursuant to Fed. R. Civ. P. 12(b)(2), on the ground that this Court lacks personal jurisdiction over said Defendants.

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